

2005 Senate Bill 79

Date of enactment: **May 2, 2005**
Date of publication*: **May 16, 2005**

2005 WISCONSIN ACT 7

AN ACT to create 196.371 and 196.39 (5) of the statutes; **relating to:** specifying the rate-making principles applicable to certain electric generating facilities and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 2. 196.371 of the statutes is created to read:

196.371 Rate-making principles for electric generation facilities. (1) **DEFINITION.** In this section, “certificate” means a certificate issued under s. 196.49 (3) or 196.491 (3).

(2) **APPLICATION.** A public utility that proposes to purchase an electric generating facility or that applies for a certificate for the construction of an electric generating facility may apply to the commission for an order specifying in advance the rate-making principles that the commission shall apply to the public utility’s recovery of the capital costs of the facility, including the purchase price and any necessary modifications or improvements to the facility at the time of the purchase, in future rate-making proceedings. In applying for an order under this section, a public utility shall describe the public utility’s proposal for the recovery of such costs, including all of the following:

- (a) The economic useful life of the facility.
- (b) The proposed return on equity and rate of return for the facility.
- (c) The proposed financing mechanisms for the facility.
- (d) The proposed method for determining the costs that may be recovered in rates.

(e) Any other proposals or information regarding the recovery of the costs that the public utility determines are necessary for providing certainty to the public utility, investors, and ratepayers in future rate-making proceedings.

(f) Any other information specified by the commission.

(3) **PROCEDURE.** (a) The commission shall conduct a hearing on an application for an order under this section. The commission may hold the hearing in conjunction with a hearing, if any, on the application for the certificate or the commission may hold a separate hearing on the application for the order. If the public utility has applied for a certificate for the facility, the commission shall determine whether to deny an application for an order or to issue an order no later than the date that the commission takes final action on the application for the certificate. If the public utility has not applied for a certificate, the commission shall determine whether to deny an application for an order or to issue an order no later than 180 days after the commission determines that the application for the order is complete using the method and deadlines specified under s. 196.491 (3) (a) 2. The commission may issue an order if the commission determines that the order will provide a sufficient degree of certainty to the public utility, investors, and ratepayers with respect to future recovery of the facility’s capital costs and that the order is otherwise in the public interest.

* Section 991.11, WISCONSIN STATUTES 2003–04 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

(am) The commission shall specify in an order under this section a deadline at least 60 days after the date of issuance of the order for the public utility to notify the commission in writing about whether the public utility accepts or waives acceptance of the order. If the public utility does not make the notification by the deadline specified in the order, the public utility is considered to have waived acceptance of the order.

(b) If the public utility accepts the order, then, in all future rate-making proceedings regarding the public utility, the order shall be binding on the commission in its treatment of the recovery of the capital costs of the facility that is subject to the order and the commission may not consider the order or the effects of the order in its treatment of the recovery of any other cost of the public utility.

(bm) If the public utility waives or is considered to have waived acceptance of the order, the commission shall withdraw the order and consider the capital costs of the facility in all future rate-making proceedings in the same manner as the commission considers capital costs for which no order has been issued under this section.

(c) The commission may not require a public utility to apply for or accept an order under this section.

(4) RULES. The commission shall promulgate rules for administering this section, including rules specifying the information that must be included in an application for an order under this section.

SECTION 3. 196.39 (5) of the statutes is created to read:

196.39 (5) This section does not apply to an order issued under s. 196.371.

SECTION 4. Nonstatutory provisions.

(2) PROPOSED RULES. The public service commission shall submit in proposed form the rules required under section 196.371 (4) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 4th month beginning after the effective date of this subsection.

SECTION 5. Effective dates. This act takes effect on the first day of the 4th month beginning after publication, except as follows:

(1) SECTION 4 (2) of this act takes effect on the day after publication.
